

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7719 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHIKHABHAI HIRJIBHAI PATEL

Versus

DY. COLLECTOR

Appearance:

MR AN PATEL for Petitioner

MR DN PATEL AGP for respondent

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 12/12/97

ORAL JUDGEMENT

Rule. Mr DN Patel learned AGP waives service of rule on behalf of the respondent.

The petitioner by way of this petition has challenged the legality and validity of the order at ANnexusure-C dated 26.9.1997 passed by the Deputy Collector, Amreli-respondent herein.

It is the case of the petitioner that his father

has purchased the house with lands from one Hirabai Viththalbhai widow of Jatashankar Nanjibhai by an unregistered and written agreement dated 28.2.1960 for an amount of Rs 400/ and obtained the possession of the property of village Barvala-Baval, tal. Vadia, District Amreli. It appears that certain proceedings were initiated under section 4(a) of the Saurashtra Jagir Uparjan Act before the respondent authority whereby the amount of compensation was fixed on 16.10.1963. It is also the case of the petitioner that the possession of the party in question was handed over to the petitioner's father and after his death, the petitioner is in possession and ownership of the house in question and has been paying the revenue cess and panchayat tax etc. It appears that on 19.9.1996 a show-cause notice was issued against the petitioner to show cause as to why the property in question is not forfeited by the State Government. The respondent, it appears that after recording the statement of the petitioner and the Talati of village Barvala-Baval, ultimately passed the impugned order dated 26.9.1997, which is impugned to this petition.

Now it is a settled law that wherever a power is vested in statutory authority without prescribing any time limit, such should be exercised within a reasonable time. There is no dispute to the fact that the respondent-herein has exercised suo motu powers by issuing the notice to the petitioner on 19.9.1996 by alleging that as the transfer of the property in question was effected by a document which is unregistered, why the same is not forfeited by the State Government. Thus, the respondent has exercised suo motu powers after about 36 years which under no circumstance be construed as the powers having been exercised in a reasonable time. The petition is, therefore, requires to be allowed only on this point.

In the result, the petition is allowed. The impugned order dated 26.9.1997, Annexure-C, passed by the Deputy Collector, Amreli-respondent herein is hereby quashed and set aside. Rule made absolute with no order as to costs.
